



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 140-00

17 April 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) NPC ltr 5420 Pers 911C of 17 Mar 2000  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the United States Naval Reserve filed enclosure (1) with this Board requesting, in effect, that the date of his discharge from enlisted status be changed to coincide with the date he accepted his commission.

2. The Board, consisting of Mr. Silberman, Mr. Neuschafer and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 11 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner was honorably discharged from enlisted status for the purpose of accepting a commission on 22 March 1988. He accepted his appointment as a LTJG (O-2) in the Naval Reserve on 6 May 1988. His date of rank as a LTJG is 23 March 1988. Apparently, he was improperly discharged the day before his date of rank instead of the day before he accepted his appointment as an officer. As indicated, Petitioner is requesting a correction to the record to close the 43 day gap in service caused by the early discharge.

d. At enclosure (2) is an advisory opinion from the Navy Personnel Command recommending that the record be corrected by changing the date of discharge to 5 May 1988, the day before he accepted his appointment. The advisory opinion also recommends that the DD Form 214 at issue and all subsequent DD Form 214's be changed. In addition revised statements of service should be prepared to reflect the additional service, and that Petitioner's separation pay be recomputed based on the revised length of service.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board agrees with the advisory opinion that an error occurred and the record should be corrected to show that Petitioner had no break in service. Therefore, the Board concludes that the record should be corrected by changing the date of discharge from enlisted status to 5 May 1988 from 22 March 1988.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably discharged on 5 May 1988 to accept a commission in the Naval Reserve vice the discharge on 22 March 1988 now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

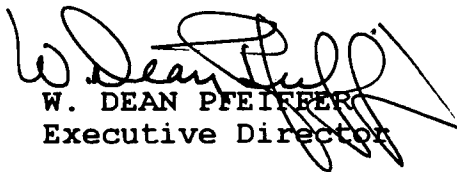
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the

authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director